

Attachment A

In the matter of:

Mr. Herzel Rico Michaeli
123 South Westgate Avenue
Los Angeles, CA 90007*

Order No R4-2008-00XX
Assessing Civil Liability

*[The zip code, as it appeared on the
Complaint, is incorrect. The correct zip
code is 90049]

This Order is issued in reference to an adjudicative proceeding initiated by the issuance of Administrative Civil Liability Complaint No. R4-2008-0043, dated July 25, 2008 ("Complaint"). The Parties to this proceeding are the Regional Water Quality Control Board, Los Angeles Region ("Regional Water Board") Prosecution Team and Mr. Herzel "Rico" Michaeli (collectively referred to as "Parties").

The Regional Water Board has been presented with a proposed settlement of the claims alleged in the Complaint that has been developed during negotiations between the Parties. The proposed settlement represents a mutually agreed-upon resolution of the Prosecution Team's claims through the imposition of an administrative civil liability in the amount of \$35,000. The Parties settlement agreement is attached hereto as Attachment 1. The Parties recommend that the Regional Water Board issue this Order to effectuate the Parties' proposed settlement. Having provided public notice of the proposed settlement and not less than thirty (30) days for public comment, the Regional Water Board finds that:

1. Mr. Michaeli's failure to comply with Cleanup and Abatement Order No. R4-2004-0165 (Cleanup Order) gives rise to civil liability under California Water Code section 13350 and/or 13268.
2. In accepting the proposed settlement, the Regional Water Board has considered each of the factors prescribed in California Water Code section 13327. The Regional Water Board's consideration of these factors is based upon information obtained by the Regional Water Board in investigating the allegations in the Complaint or otherwise provided to the Regional Water Board, including the information presented at the noticed hearing of this matter.
3. A notice of the settlement and assessment of the civil liability was published in (newspaper) on or before (date) notifying the public of a 30-day review period and soliciting public comments on the terms of the settlement. This settlement and assessment of administrative civil

liability provides for the full and final resolution of each of the violations or causes of action alleged in the Complaint.

4. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code section 21000 et seq.) in accordance with section 15321, Chapter 3, Title 14, California Code of Regulations.

IT IS HEREBY ORDERED that:

5. Administrative civil liability under California Water Code section 13350 and/or 13268 is imposed on Mr. Herzl "Rico" Michaeli in the amount of \$35,000, to be satisfied as follows:
 - (a) Within thirty (30) calendar days of receiving written or verbal notice from the Regional Water Board that this Order has become effective, Mr. Michaeli shall pay \$10,000 to the State Water Resources Control Board for deposit into the Cleanup and Abatement Account.
 - (b) Within three hundred sixty five (365) calendar days of receiving written or verbal notice from the Regional Water Board that this Order has become effective, Mr. Michaeli shall pay \$5,000 to the State Water Resources Control Board for deposit into the Cleanup and Abatement Account.
 - (c) The remaining \$20,000 in liability shall be upon the condition that Mr. Michaeli remains in full compliance with each of the requirements of Cleanup and Abatement Order R4-2004-0165. The \$20,000 in suspended liability shall be permanently suspended at the time closure of the tank case at 5742 Orange Avenue, Long Beach, CA is granted by the Regional Water Board pursuant to Health and Safety Code, section 25296.40. Mr. Michaeli's obligation to maintain compliance with Cleanup and Abatement Order No. R4-2004-0165 as a condition of suspending \$20,000 in liability exists independent of the Regional Water Board Executive Officer amending Cleanup and Abatement Order No. R4-20040165 to include K.A.R.E.N. Oil Company as a responsible party.
6. Payments made pursuant to this Order shall be made in the form of a check, payable to the *State Water Resources Control Board Pollution Cleanup and Abatement Account* and remitted to the State Water Resources Control Board, Department of Administrative Services, P.O. Box 1888, Sacramento, CA 95812-1888. Copies of the check and any correspondence accompanying the check shall be sent by Mr. Michaeli

to Deborah Smith, Chief Deputy Executive Officer, Los Angeles Regional Water Quality Control Board, 320 West 4th Street, Los Angeles, CA 90013, and David Boyers, State Water Resources Control Board, Office of Enforcement, P.O. Box 100, Sacramento, CA 95812-0100.

7. In the event that Mr. Michaeli fails to make either payment described in Paragraphs 5a, or 5b, above, the entire liability of \$35,000, less any sum already paid, shall become immediately due and payable to the State Water Resources Control Board for deposit into the Cleanup and Abatement Account.
8. In the event that Mr. Michaeli fails to comply with the requirements of this Order, the Executive Officer is authorized to refer this matter to the Office of the Attorney General for collection and/or enforcement.

IT IS SO ORDERED

TENTATIVE

TRACY J. EGOSCUE
Executive Officer

DATE